FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
NAGPUR BENCH, NAGPUR

First Appeal No.520/2007
(State & others Vs. Hira Jairam Pawar)

Appeal	District :
Application No.	of 200
Writ petition	

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

Mr. A.S. Fulzele, A.G.P. for the appellants.
Mr. D.A. Sonwane, Adv. for the respondent.

CORAM : Smt. Vasanti A. Naik, J.
DATED : 25th July, 2007.

Heard the learned counsel for the parties.

By this first appeal, the appellants challenge the judgment passed by the reference Court in L.A.C. No. 25/2004. An area of 76 R of land was acquired by the State of Maharashtra for the purpose of construction of a water tank at village Asoli. Section 4 notification was issued on 20/2/2001. The Land Acquisition Officer passed the Award and granted compensation @ Rs. 31,500/- per hectare. The respondent challenged the Award by filing a reference application. The matter was referred to the Additional District Judge, Pusad who, by the judgment dated 20/11/2004, granted enhanced compensation to the respondents. The judgment of the reference Court is challenged in the instant appeal.

Though the judgment passed by the reference Court is challenged on various grounds, it

is necessary to note that the land of the respondent was situated just adjacent to the village and had a great potential value. The claimant claimed the compensation @ Rs. 1,000/- per R against the rate awarded by the Land Acquisition Officer at Rs. 315/- per R. The respondent relied on the sale instances at Exh.18 which showed that adjoining land was sold @ Rs. 1,363/- per R. The claimant/respondent then relied on a sale instance where the land was sold @ Rs. 1,692/- per R. The reference Court also considered the fact that the sale instance referred by the Land Acquisition Officer showed that the purchase price of the adjoining land was within the range of Rs. 300/- to Rs. 450/- per R. The copy of the Index Register showed that certain land was sold at Rs. 735/- per R and yet another was sold at Rs. 1,692/- per R. The reference Court held that the Land Acquisition Officer should have considered the sale instances which fetched consideration @ Rs. 735/- per R and Rs. 1692/- per R, while determining the compensation in this case.

The reference Court did not blindly grant the compensation to the respondent herein @ Rs. 1692/- per R or Rs. 735/- per R, but granted the compensation by taking a mean of the transactions ranging from Rs. 300/- per R to Rs. 450/- per R and Rs. 735/- per R and Rs. 1692/- per R. Hence the reference Court granted the compensation @ Rs. 500/- per R, though the claimant had sought the

enhancement @ Rs. 1,000/- per R. The reference Court observed that the transaction at Sr. No.7 which fetched the marked rate at Rs. 1,692/- per R., was at a walking distance from the Gaothan and hence the claimant was not entitled to the compensation @ rs. 1,692/- per R. and just and proper compensation could be @ Rs. 500/- per R.

Thus, it appears that the reference Court considered the sale deeds pertaining to the comparable lands and the extract of Sale Register which was considered by the Land Acquisition Officer before granting the compensation to the claimant. Since the land was situated adjacent to the Gaothan and having more potential value, the reference Court granted the compensation @ Rs. 500/- per R.

I find no fault with the judgment passed by the reference Court.

For the reasons aforesaid, first appeal is dismissed with no order as to costs.

JUDGE

RMP